HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

Writ Petition No. 9405 of 1996

Between:

Shahbuddin and another

… Petitioners

And

Mandal Revenue Officer, Golkonda
Mandal, Hyderabad Dist. and others

… Respondents

:: ORDER::

Counsel for Petitioners: Sri V.Venkataramana

Counsel for the Respondents: Government Pleader for Revenue

April 5, 2006

In this petition, the petitioners have prayed for restraining the respondents from interfering with their possession over the land measuring Ac.3-38 guntas comprised in Sy.No. 86, 89 and 90 of Hakeempet village, Golkonda Mandal, Hyderabad District.

The land in question was under the ownership of Sri M. Qudrat Ali s/o. Mir Babar Ali. Sri Poosa Pentaiah was the protected tenant. After the death of the protected tenant, two of his sons, namely, Sri P. Laxmaiah and Sri P. Gundaiah executed an agreement dated 30-6-1989 for sale of land to the petitioners and delivered possession to them. In the meanwhile, as a sequel to the determination of his surplus area under the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'), Sri M. Qudrat Ali is said to have surrendered the land sold to the petitioners. On coming to know of this, the petitioners filed appeal before Commissioner, Urban Land Ceiling, Hyderabad (respondent No.4). The latter stayed dispossession of the petitioners.

The complaint of the petitioners is that during the pendency of appeal filed by them, Mandal Revenue Officer, Golkonda Mandal, Hyderabad District (respondent No.1) had threatened to demolish the structures standing on the land in question. According to them, that this action of respondent No.1 is not only vitiated due to violation of the rules of natural justice, inasmuch as, no action oriented notice and opportunity of hearing was given to them, but is also violative of their constitutional right to property guaranteed under Article 300-A.

I have heard learned counsel for the parties and perused the record.

The averments contained in the counter-affidavit show that the land possessed by the petitioners forms part of the holding of Sri Qudrath Ali. By an order dated 16-11-1979 the competent authority

decided the surplus area case of Sri M. Qudrath Ali and declared that 66279.76 Square metres of land was surplus. One of the tenants of Sri Qudrath Ali challenged the order of the competent authority by filing an appeal under Section 33 of the Act. The same was allowed by respondent No.4 vide his order dated 2-7-2004 and the matter was remanded to the competent authority for fresh enquiry and computation of holdings of the landowners afresh. In paragraphs 12 and 13 of the counter-affidavit filed by Smt K.Aruna Kumari, Special Deputy Collector in the office of the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad, the following averments have been made:

> "12. Meanwhile the appeal filed by Sri A.Mallesh and others in Appeal No.Hyd/252 & 253/95 were disposed by the Commissioner of Appeals on 2-7-2004. The case is remanded to Special Officer & Competent Authority, Urban Land Ceiling, Hyderabad for fresh enquiry and computation of holding in CC.No.D1/7048/76 and appellants in CC.No.E1/10543 to 10546 and E1/6996/76 afresh after giving opportunity to the parties concerned and pass appropriate orders as per Law by setting aside the earlier order in Proceedings No.E/7408/76, dt: 16-11-79. After the remand the CCs are taken up for hearing after giving notice to the parties in the concerned CCs. The Writ petitioners are not parties before the appellants. Hence the petitioners are third parties to the proceedings. Hence the writ petition is not maintainable.
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> 13. In reply to para No.4 of the petitioner affidavit it is submitted that the possession of the surplus land handed over to the Mandal Revenue Officer on 6-8-88 to safe guard the interest of the Government on the surplus land declared earlier. In view of the remand order of the appellate authority the matter has to be enquired afresh and revised orders u/s 8 (4) are to be passed. In view of the circumstances nothing survives in the writ petition."

Sri Venkataramana, learned counsel for the petitioner says that in view of the aforementioned averments, the writ petition may be disposed of as infructuous with liberty to his clients to file fresh petition, if and as and when any such contingency arises.

Learned Government Pleader for Revenue says that he does not have any objection.

In view of the above, the writ petition is disposed of as infructuous with liberty in terms of the prayer made.

G.S. SINGHVI, CJ

April 5, 2006

GRR / svs